HON'BLE SRI JUSTICE B.SUDERSHAN REDDY

AND

HON'BLE SRI JUSTICE S.ANANDA REDDY

W.P.No.20963 of 1996

15-09-2005

Between:

M/s Ajanta Wines, Narsapur, rep.

by its partner, N.Markandayulu,

S/o Adinarayana, aged about 40 years,

Business, R/o Narsapur, W.G. Dist.

.. Petitioner

and

The Commercial Tax officer,

Narsapur, West Godavari district.

.. Respondent

HON'BLE SRI JUSTICE B.SUDERSHAN REDDY

AND

HON'BLE SRI JUSTICE S.ANANDA REDDY

W.P.No.20963 of 1996

ORDER: (Per Hon'ble Sri Justice B.Sudershan Reddy)

The petitioner invokes the extraordinary jurisdiction of this Court under Article 226 of Constitution of India with a prayer to issue writ of mandamus directing the respondents herein to implement the orders of the Appellate Deputy Commissioner (CT), Vijayawada, in Appeals No.129/95-96, 130/95-96 and 131/95-96 dated 13-11-1995 and to pay interest on the amounts to be refunded to the petitioner at the rate of 12% per annum.

The petitioner assessee at the relevant time was running a bar and restaurant at Narsapur during the years

1983-84, 1984-85 and 1985-86. The assessing authority assessed the sale of food and drinks including the intoxicants during the years 1983-84, 1984-85 and 1985-86 and accordingly levied tax. The case of the petitioner is that during the said period, the petitioner dealer did not undertake supply of food and beverages as sales and therefore did not collect any sales tax from its customers. Be that as it may, aggrieved by the order of the assessing authority, he preferred appeals before the appellate authority i.e. Appellate Deputy Commissioner (CT), Guntur, who vide his orders dated 03-08-1992 remanded the cases to the assessing authority for fresh disposal in accordance with law. On remand, the Commercial Tax Officer, Narsapur, passed orders ordering the refund of Rs.17,136/- for the year 1983-84; Rs.24,298/- for the year 1984-85 and Rs.14,793/- for the year 1985-86 vide proceedings dated 31-10-1994.

The gravamen of the complaint in the instant case relates to inaction on the part of respondents in implementing the orders of the Appellate Deputy Commissioner (CT), Vijayawada. In our considered opinion, the respondents have no choice but implement the orders of the Appellate Deputy Commissioner and accordingly refund the amounts with interest thereon at 12% per annum provided the orders have attained finality. In the circumstances, there shall be a direction directing the respondents to forthwith refund the said amounts by duly implementing the orders of the Appellate Deputy Commissioner (CT), Vijayawada, together with interest thereon at 12% per annum provided the said orders have attained finality.

The writ petition is accordingly disposed of without any order as to costs.

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B.SUDERSHAN REDDY, J

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S.ANANDA REDDY, J

15-09-2005

bsc